

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY BROWN,

Plaintiff,

v.

D. EARLS Jr., *et al.*,

Defendants.

Case No. 2:22-cv-00359-JDP (PC)

ORDER

DENYING PLAINTIFF'S MOTION FOR AN
EXTENSION OF TIME AS MOOT AND
DIRECTING PLAINTIFF TO FILE AN
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO DEFENDANTS' MOTION
TO COMPEL WITHIN TWENTY-ONE DAYS

ECF No. 33

RESPONSE DUE WITHIN TWENTY-ONE
DAYS

Plaintiff is a state inmate proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. On October 10, 2023, defendants moved to compel plaintiff's discovery responses. ECF No. 29. Instead of filing an opposition or statement of non-opposition to that motion, plaintiff filed a motion to stay and modify the scheduling order. ECF No. 30. There, plaintiff argued that he was unable to make copies of legal documents and he had not been provided with an opportunity to review his deposition transcript, all of which necessitated a need for additional time. *Id.* Defendants opposed plaintiff's motion, arguing that plaintiff's inability to make copies or review his deposition transcript did not demonstrate good cause for extending discovery. ECF No. 31. Plaintiff did not file a timely reply, *see* Local Rule 230(l), accordingly, I

1 ruled on plaintiff's motion the day it was deemed submitted.

2 In that order, I denied plaintiff's motion because he did not specify whether he sought
3 additional time to serve discovery request or to submit supplemental responses. ECF No. 32. I
4 notified plaintiff that he could renew his motion, but that he should clarify the purpose for the
5 requested extension. *Id.* In the interest of efficiency, I also ordered defendants to mail plaintiff a
6 copy of his deposition transcript. *Id.*

7 Nearly a month later, plaintiff belatedly filed a motion seeking an additional forty-five
8 days to file a reply to defendants' opposition. ECF No. 33. Plaintiff explains that he has had
9 trouble making legal copies, is set to be transferred institutions, and has had his cell repeatedly
10 searched. *Id.* at 2. Defendants oppose that motion, arguing that the request is moot and even if it
11 were not, that plaintiff has not demonstrated good cause warranting such a continuance. ECF No.
12 34.

13 Plaintiff's motion is denied as moot. Plaintiff's motion was deemed submitted on
14 November 17, 2023, and his request for additional time to file a reply, filed December 14, 2023,
15 is untimely. With that said, nothing in this order or the prior order forecloses plaintiff from
16 moving to modify the scheduling order. If plaintiff files such a motion, he should take care to
17 state whether he needs additional time to serve discovery or to submit responses to discovery
18 already propounded on him by defendants. Additionally, plaintiff is warned for a second time
19 that his opposition or statement of non-opposition to defendants' motion to compel, ECF No. 29,
20 is late. Plaintiff shall file his response to that motion within twenty-one days.

21 Accordingly, it is hereby ORDERED that:

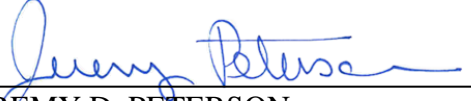
22 1. Plaintiff's motion for an extension of time, ECF No. 33, is denied as moot.

23 2. Plaintiff shall file an opposition or statement of non-opposition to defendants' motion
24 to compel within twenty-one days.

25 3. Failure to comply with this order may result in a recommendation of dismissal.
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1
2 IT IS SO ORDERED.

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4 Dated: February 8, 2024


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE